

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LOUIE F. GALLEGOS,

Plaintiff,

vs.

Civ. No. 01-322 JP/LFG
Consolidated with
Civ. No. 01-1253 JP/WWD

STATE OF NEW MEXICO,
JACQUELYN TORRES, individually,
and MICHAEL BLEA, individually,

Defendants.

MEMORANDUM OPINION AND ORDER CONSOLIDATING
CIV. NO. 01-322 JP/LFG AND CIV. NO. 01-1253 JP/WWD

On March 21, 2001, the Plaintiff filed this employment case. On November 2, 2001, the Plaintiff filed a civil rights case, Civ. No. 01-1253 JP/WWD. Although each of these cases alleges different causes of action, there are factual allegations that both cases share. This Court has the authority to consolidate related cases *sua sponte* under Fed. R. Civ. P. 42(a). *See Devlin v. Transportation Communications Intern. Union*, 175 F.3d 121, 130 (2d Cir. 1999). The determination of a motion to consolidate is discretionary. *Shump v. Balka*, 574 F.2d 1341, 1344 (10th Cir.1978); *Gillette Motor Transport v. Northern Oklahoma Butane Co.*, 179 F.2d 711, 712 (10th Cir.1950).

In deciding whether to consolidate cases, the Court should initially determine that the cases to be consolidated “involv[e] a common question of law or fact.” Fed. R. Civ. P. 42(a). If the cases involve a common question of law or fact, the Court should then weigh the interests of judicial convenience in consolidating the cases against the delay, confusion, and prejudice consolidation might cause.

Servants of Paraclete, Inc. v. Great American Ins. Co., 866 F.Supp. 1560, 1572 (D.N.M.

1994)(citing *Southwest Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F.Supp. 805, 807 (N.D. Cal. 1989)). Applying these standards to the Plaintiff's two pending cases, the Court finds that consolidation is desirable "to avoid unnecessary costs or delay." *See id.*; Fed. R. Civ. P. 42(a).

IT IS ORDERED that:

1. Civ. No. 01-322 JP/LFG and Civ. No. 01-1253 JP/WWD are consolidated;
2. Civ. No. 01-322 JP/LFG is the lead case; and
3. all future filings in Civ. No. 01-1253 JP/WWD will be filed in Civ. No. 01-322 JP/LFG.

James A. Parker
CHIEF UNITED STATES DISTRICT JUDGE